

RESOLUTION NO. _____

A RESOLUTION OF THE COUNCIL OF THE CITY OF SANTA BARBARA DENYING THE APPEAL AND UPHOLDING THE DECISION OF THE CITY PLANNING COMMISSION TO CERTIFY THE FINAL ENVIRONMENTAL IMPACT REPORT FOR THE SANDMAN INN REDEVELOPMENT PROJECT, AND TO APPROVE THE APPLICATION OF BRENT DANIELS, L&P CONSULTANTS, AGENT FOR KELLOGG ASSOCIATES, FOR THE TENTATIVE SUBDIVISION MAP, A DEVELOPMENT PLAN APPROVAL, AND CERTAIN LOT AREA MODIFICATIONS AND LINE ADJUSTMENTS IN CONNECTION WITH THE REDEVELOPMENT PROJECT PROPOSED FOR 3714-3744 STATE STREET BUFFER (MST2007-00591) AND KNOWN AS THE "SANDMAN INN REDEVELOPMENT PROJECT"

WHEREAS, the Sandman Inn Redevelopment Project (the "Project") was originally proposed to the City and the preliminary development application were made in 2003. The Project consists of the proposed redevelopment of 4.58 acres on Upper State Street of the City. The existing improvements consist of a 113 room motel and a 216 seat restaurant. The Project originally proposed by the Applicant was a 112 room hotel (which was subsequently reduced to a 106 room hotel) and 73 residential units, eleven of which are affordable (hereinafter referred to as the "Proposed Project"). The Proposed Project's hotel was comprised of 63,455 square feet of improvements and a 112 space below ground parking lot;

WHEREAS, during the City's consideration of the Project and in partial response to the Project application, the City Community Development Department prepared, and the City Council considered, and eventually adopted the City's Upper State Street Study. In response to this study, the Project applicant proposed significant modifications to the Proposed Project. These modifications eliminated the proposed 63,455 square foot hotel and replaced it with a proposed 15,790 square foot office building. In addition, the Project Applicant kept the number of condominium residential units being proposed at seventy-three (73.) This version of the Project became known as the "Applicant's Alternative" and is hereinafter referred to as that. Since, the environmental review process began with the filing of an application for the Proposed Project, ultimately both the Proposed Project and the Applicant's Alternative were analyzed for CEQA purposes in detail in the Project EIR; thus, the City's consideration of the Sandman Inn Redevelopment Project EIR analyzed two distinct versions of the Project at a project-specific level: the "Proposed Project," which consisted of redevelopment of the site with a 106-room hotel and 73 residential condominium units, and the "Applicant's Alternative," which consisted of the redevelopment of the site with 14,254 net square feet of office space and 73 residential condominium units. The Project EIR also analyzed four other alternatives to the Proposed Project and Applicants Alternative.

WHEREAS, prior to the release of and hearing on the draft Project EIR, the Applicant presented the Applicant's Alternative to the City's Architectural Board of Review (ABR) and received comments. In conjunction with the Planning Commission hearing on the draft EIR, the Proposed Project and the Applicant's Alternative were also the subject of a Planning Commission "Concept Review" hearing. In response to the comments received at the ABR and the Concept Review hearing, the Applicant further refined the Applicant's Alternative to be responsive to the comments being received, both from the City and from members of the public. With respect to the refinements, the Applicant included a reduction in the size of the office building and the addition of two commercial condominiums for an increase of 358 net new square feet, and the reduction of the bedroom count in the residential condominium portions of the Project by 6 bedrooms (this iteration of the Project is hereinafter referred to as "December 2009 Project" or the "Approved Project");

WHEREAS, the Draft EIR for the Project was released by the City for a 30-day public review and comment period between April 22, 2009, and May 22, 2009, and a Draft EIR hearing was held by the Planning Commission on May 14, 2009. The City environmental review staff received sixteen (16) comment letters during the Draft EIR public review period, and comments were made by the Planning Commission and the public at the Draft EIR public hearing held by the Commission. The Final EIR includes staff and consultant responses to all comments received on the Draft EIR, and it concludes that the Applicant's Alternative Project would not result in any significant, unavoidable (Class I) impacts;

WHEREAS, the Final Project EIR concludes, after a thorough analysis of both the Proposed Project and the Applicant's Alternative, that there would likely be no significant and unavoidable environmental impacts from either of those two Project alternatives. In fact, the Planning Commission concluded that the EIR impact analysis shows that both the Proposed Project and the Applicant's Alternative have far fewer impacts than the long-existing baseline condition of the Sandman Inn hotel and restaurant uses presently being operated on the Project property;

WHEREAS, the lack of potentially significant adverse environmental impacts is only more true of the Approved Project, which is clearly a lesser size and lesser impact iteration of the Applicant's Alternative Project. In other words, the Project design ultimately approved by the Planning Commission was slightly revised from the "Applicant's Alternative" that was reviewed in the EIR (as described in more detail in Exhibit 4 of the December 10, 2009 Planning Commission staff report.) These project changes were analyzed by staff and were determined to be minor in nature because they did not change or clearly only lessened the potential scope or severity of any environmental impacts identified in the EIR for the "Applicant's Alternative." As such, the City and public review process involved in achieving a consensus of the Approved Project is exactly the sort of process which CEQA anticipates being part of the overall environmental review of a project and as being very appropriate. Therefore, the Planning Commission determined that the Final EIR addressed all potential project impacts, and all applicable mitigation measures were correctly applied to the Approved

Project – all as part of a full process of public knowledge and public participation;
WHEREAS, the Final Project EIR indicates that any potential traffic impacts which could result from the Approved Project are reduced substantially for the existing baseline condition; it also concludes that other potential related impacts are reduced. For example, the Final Project EIR indicates that public views adjacent to the Project site, and the Project landscaping and architecture are all vastly improved over the existing baseline condition. Further, pedestrian circulation (both public and private) would also be improved and enhanced by the Approved Project;

WHEREAS, the December 2009 Project (the “Approved Project”) received unanimous positive comments from the Architectural Board of Review (the “ABR”) at a November 16, 2009, ABR hearing;

WHEREAS, the December 2009 Approved Project received unanimous (6-0) approval by the City Planning Commission at a noticed public hearing held on December 17, 2009. In issuing this approval for the Approved Project, the Planning Commission also unanimously certified the proper preparation of the Final Project EIR at its December 17 hearing;

WHEREAS, the Project approved by the Planning Commission as the Approved Project consists of the demolition of the existing 113-room Sandman Inn Hotel, Downtown Brewing Company restaurant building, and all site improvements, and the construction of a new office complex consisting of 13,075 square feet on Lot A, and two commercial condominiums totaling 1,537 square feet and 73 residential condominium units on Lot B. The Project includes a total of 242 parking spaces (71 parking spaces for the commercial component, 164 parking spaces for the residential component and 7 common/shared spaces.) The office development on Lot A of Project would be contained within a two-story building with a maximum height of approximately 31 feet. A majority of the parking (46 of 63 required spaces) would be provided in an at-grade parking lot located behind the building. The remaining required parking spaces would be located along the at-grade driveway (3 spaces), in the existing adjacent parking lot on-site (4 spaces) and in the underground parking garage located on Lot B (10 spaces). The commercial development on Lot B of the Project would have a maximum height of approximately 24 feet. Parking would be provided along the at-grade driveway (5 spaces) and in the underground parking garage (3 spaces). The residential development on Lot B would have a maximum height of 35 feet above finished grade, with parking provided in an underground parking garage. Of the 73 residential condominium units, two units would be one-bedroom units of approximately 873 square feet, 52 units would be two-bedroom units of between 1,080-1,350 square feet, and 19 units would be three bedroom units of between 1,425-1,520 square feet. Eleven of the 73 units (2 one-bedroom units, 5 two-bedroom unit and 4 three-bedroom units) would be provided at sales prices targeted to middle-income households, pursuant to the City of Santa Barbara’s Affordable Housing requirements. The residential development would also include a Community Center of approximately 1,200 square feet and common open space areas located east and west of the at-grade driveway turn-around;

WHEREAS, the Approved Project required the following discretionary approvals by the City Planning Commission: 1. Certification of the Final Environmental Impact Report (EIR) for the project; 2. a Lot Line Adjustment to transfer 2.22 acres from APN 053-300-031 to APN 053-300-023; 3. a Development Plan to allow construction of a non-residential building of 10,000 square feet or more of total floor area in the C-P Zone; 4. a Modification of the lot area requirements to allow one over-density unit on a lot in the C-P/S-D-2, R-3/S-D-2 and R-4/S-D-2 zone districts; and 5. a Tentative Subdivision Map for a one-lot subdivision to create 73 residential condominium units and two commercial condominium units;

WHEREAS, on January 7, 2010, the Citizens Planning Association and Allied Neighborhoods Association (hereinafter the "Appellants") appealed the Planning Commission certification of the Final EIR and the Commission's related approvals and permits issued for the Approved Project – known as the "Sandman Inn Redevelopment Project," citing, among other issues, a concern that the Final EIR did not identify the Applicant's Alternative or the Approved Project as the environmentally superior alternative and that the certification of the Final Project EIR was "overbroad";

WHEREAS, in response to the scheduling of the CPA appeal, on March 8, 2010, the City Council visited the Project site and spent considerable amount of time viewing the actual location and improvements at the Project site in terms of how it would be impacted by the Approved Project, particularly the possible aesthetic and public view impacts;

WHEREAS, on March 9, 2010, the City Council held a duly noticed public hearing on the CPA/Appellants' appeal, receiving a comprehensive staff and oral report from City staff as well as oral and written testimony from the Appellants, the Applicant's representatives, and from members of the public; and

WHEREAS, after consideration of all of the evidence presented (both written and verbal), (in particular the March 9, 2010 City staff report presented to the City Council and the March 8, 2010 site visit) as well as the public testimony received, and after extensive deliberation by the Council members, the City Council unanimously concluded and hereby concludes that the Sandman Inn Redevelopment Project Final EIR is adequate and was prepared in accordance with all of the requirements of the California Environmental Quality Act and the related state CEQA Guidelines, and that the Approved Project is acceptable and in keeping with the City's Zoning Ordinance and the General Plan, the City's Upper State Street Study, and that the Planning Commission's Approval should be upheld and the appeal should be denied.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE CITY OF SANTA BARBARA THAT THE CITY COUNCIL FINDS AND DETERMINES AS FOLLOWS:

SECTION ONE. CEQA and Related Findings. The City Council has read and fully considered the Sandman Inn Redevelopment Project's Final EIR and, in hereby adopting and approving the Final EIR, has found and determined, in the Council's independent judgment and analysis and on the basis of the whole record before the City Council, as

follows that:

1. Compliance with CEQA Procedural and Substantive Mandates. The Final EIR for the Sandman Inn Redevelopment Project has been completed in full compliance with the requirements of the California Environmental Quality Act and the CEQA Guidelines, both the procedural and substantive requirements; and

2. The Complete and Good Faith Disclosure of Potential Environmental Impacts. The Final EIR for the Project and related Council record documents were presented to the City Council and were fully reviewed and considered by the City Council prior to approving the Approving Project. The Final EIR for the Project constitutes a complete, accurate, and good faith effort toward full disclosure of the Approved Project's potential impacts, both environmental and otherwise, and is an adequate environmental analysis of the Approved Project; and

3. The Project EIR's Alternatives Analysis: In particular, the City Council reviewed in detail and fully considered the Alternatives Analysis of the Final Project EIR [Section 9.0 (pages 9.0-1 through 9.0-18) of the Final EIR] and was provided with a revised version of Table 9.0-1 (at page 18) in order to clarify a point being asserted by the Appellants. Based on this review and the Council appeal hearing, the City Council concludes that the Final Project EIR does not support the Appellants' assertion that the "No Project Alternative" is an environmentally superior alternative or that the Final Project EIR failed to conduct and explain a full and appropriate "Alternatives Analysis"; More specifically, the Council concludes that the Appellants have apparently misread Table 9.0-1 since this Table clearly shows that both the Applicant's Alternative (i.e., with the "Approved Project" which is a lesser impact iteration of the "Applicant's Alternative") and the Proposed Project will have less potential impact than the status quo – i.e., less impact than the "No Project" alternative. Consequently, the Final Project EIR clearly indicates that, of all the alternatives analyzed, the Approved Project was clearly the environmentally superior project and the project alternative which achieves most of the Applicant's project objectives with the least potential for adverse environmental impacts, significant or otherwise. The City Planning Commission also reached this same conclusion and the City Council concurs.

This analysis is true and appropriate despite that CEQA does not actually require an environmentally superior project alternative to be specifically identified when, as in this instance, the complete environmental analysis of specific potential environmental impacts indicates that all of the Project alternatives proposed (as well as all of those analyzed) would not be likely to cause any potentially unmitigated significant adverse environmental impacts, particularly compared to the existing status quo or "baseline" situation. The Council finds that CEQA Guideline sections 15126.2 and 15151 make it clear that the purpose of an EIR is not to dictate whether a particular project or project alternative must be approved or disapproved; instead, an EIR is to provide appropriate decision-makers within the lead agency detailed impact information and impact analysis which allows those decision-makers to make land-use decisions in a manner which intelligently take into account potentially adverse environmental consequences and, where necessary and appropriate, to condition a project approval in ways which should adequately mitigate potentially adverse environmental impacts.

In addition, the purpose of an environmental document (such as an EIR) is to identify potentially significant impacts of a proposed project and to explore feasible mitigation measures and project alternatives which could avoid or lessen any identified significant impacts. Thus, Council notes that CEQA Guidelines section 15126.6(a) requires the consideration of alternatives to a project that could “feasibly attain most of the basic objectives of the project but would avoid or substantially lessen any of the significant effects of the project... .” However, in this instance of the Sandman Inn Redevelopment Project, the EIR indicates that all potentially significant environmental impacts identified for all of the alternatives examined can be reduced to a less than significant level through appropriate mitigation measures as conditions of approval or fundamental aspects of a revised project description. Therefore, no unavoidable, significant impacts (i.e., “Class One” impacts) were identified in the Final Project EIR for the Approved Project.

As such, the Council finds that the preparers of the Project EIR appropriately elected to present alternatives to the project that could further lessen impacts already considered less than significant after mitigation, as well as to consider alternatives which are more consistent with or more supportive of City goals and policies than either the “Proposed Project” or the “Applicant’s Alternative.”

More specifically, the Project EIR’s “alternative analysis” included an analysis of two projects: the “Proposed Project” and the “Applicant’s Alternative,” and four other related alternatives. At the time that the Notice of Preparation was issued, the applicant began to seriously consider potentially changing their project to the “Applicant’s Alternative” to be more consistent with identified City goals and policies, especially the City’s newly completed “Upper State Street Guidelines.” Consequently, as with the original hotel and condominium project, the “Applicant’s Alternative” was analyzed at a project-specific level in the EIR so that, if the applicant chose to modify the project description to reflect the project identified as the “Applicant’s Alternative,” it would be less likely that additional and delayed environmental review would be necessary. The Council believes that this is precisely the sort of efficient and responsive process anticipated and encouraged by CEQA.

Finally, in this case, EIR Table 9.0-1 and the Alternatives analysis clearly indicates that the “No Project” is not the environmentally superior alternative. In fact, the Alternatives analysis of the EIR showed the No Project alternative to be the least environmentally superior project alternative and the Approved Project to be the environmentally superior alternative.

4. Certification and Use of the Project EIR is Applicable only to the City Council’s Approval of the Approved Project.

A. The Appellants also objected to the City Council’s certification of the Project EIR in this case because they asserted this certification would be “overbroad” and that by certifying the EIR, the City would leave “the door ... open for the applicant or a subsequent landowner to contend that CEQA does not allow additional environmental

review once the FEIR is certified.” Thus, according to the Appellants, the City certification of the Final Project EIR might allow an owner of the Sandman Inn property to pull a “bait and switch” – that is, to later revise their application to seek land-use approval for a hotel project (such as the “Proposed Project” as discussed and reviewed in the EIR) and then to insist to the City that CEQA (Public Resources) section 21166 prohibits the City from mandating any further environmental review of the Final EIR for this possible future approval of a hotel project.

B. However, despite these assertions, the Council finds that this is an incorrect reading of CEQA for two substantial reasons: First, Section 21166 would not apply to this situation in the way the Appellants asserts it would and CEQA Guideline Section 15153 (“Use of an EIR from an Earlier Project”) would clearly apply. Section 15153 would require a new certification of the EIR for that EIR to be used for the approval of a different project, especially one as different as the Proposed Project. Second, Appellants’ assertion misunderstands the meaning of the “certification” of an EIR by the Planning Commission or the City Council.

C. CEQA Section 21166 is clearly an expressly conditional statutory “mandate” which precludes “subsequent” or “supplemental” EIRs only under expressly limited circumstances – circumstances which would not be applicable to a situation where the owner of the Sandman property might later attempt to change the project back to a hotel project (“i.e., such as the Proposed Project.”) This is because, in the Council’s opinion, subparagraphs (a) and (b) of section 21166 would clearly be applicable – these subparagraphs make it express that, if is a “substantial change” to an approved project is proposed or if a change to the circumstances of an approved project occurs, revisions to and re-circulation and re-certification of an final EIR are always necessary.

D. Moreover, the Council’s action in “certifying” this or any EIR in the manner required by CEQA Guideline section 15090, only and merely establishes that the EIR was prepared and “completed in compliance with CEQA” and that the Council has “read and considered the information contained in the final EIR” and that, in the final analysis, when the EIR is used by the City Council to review a proposed project, the EIR reflects the City Council’s independent judgment. This “certification” and the use of a certified EIR to approve a particular project, does not constitute certification of that EIR for the environmental review of another different project nor does it bind the City Council to use the certified EIR in an unmodified form for the review of another and different project if a subsequent application is made for a different project. Further, certification of the EIR in one instance, does in any way preclude the City from requiring further environmental review for a different project nor does it in any way mandate that the City Council approve a different project, especially a project as different, in this case, as the Approved Project is from the Proposed Project.

E. CEQA Guideline section 15153, while expressly allowing a single EIR to describe more than one project, provides that an EIR may only be used to approve a “later project” if “the circumstances of the projects are essentially the same.” In this instance, the Council finds that the environmental and land-use circumstances of the Approved Project and the Proposed Project are and would always be very different and that, before the Project EIR in this case could be used to review a hotel project on the Sandman Inn site, full compliance with section 15153 would be required by the City

before this EIR could be used for a subsequent approval. Thus, for example, among other things, section 15153(b)(2) would mandate a new round of public noticing and public comments (i.e., re-circulation) on the Project EIR particularly with respect to whether new mitigation measures or different project alternatives should be reviewed and considered. Moreover, section 15153(b)(4) would require the City Council to fully re-certify the Final Project EIR before that EIR could be used to approve a later project. Finally, section 15153(d) is quite express that nothing would allow the use of a existing certified EIR as a basis to approve a later project if the conditions described in CEQA Guideline section 15162 would require the preparation of a subsequent or supplemental EIR.

F. In short, the City Council believes that for the Applicant or a subsequent property owner of the Sandman Inn site to change this Project to a hotel project would trigger the need to prepare a subsequent or supplemental EIR under section 15162 and that the Council would require a new and full review of the later project in accordance with CEQA and would require this new environmental review to be re-certified. Finally, the Council finds and determines that this particular certification of the Final EIR only applies to this specific approval of the Approved Project and to no other project.

5. Design Revisions to the Approved Project. The Council understands and acknowledges that, as part of the City design review process, design revisions to projects often occur after Planning Commission or City Council's land use approval, typically the result of direction received from the City HLC or ABR as part of the process of completing the City's final design review and plan check process. On the other hand, without question, land use changes to a project after Planning Commission approval clearly require the review and approval of either a revised application by the Planning Commission or, for non-substantial and minor "land use" changes, a "Substantial Conformance Determination (SCD)" issued by the Community Development Director in accordance with the Planning Commission Guidelines (as approved by the Council in 1997.) If the land-use changes are deemed minor, the Guidelines provide that they may be approved on an SCD basis. However, as a non-ministerial discretionary and subjective determination, an SCD approval also always requires full environmental review under CEQA. If a determination of substantial conformance cannot be made because the changes go beyond the scope of the prior project approval or because the changes might trigger potential environmental impacts which had not previously been fully considered, then a revised project submittal would be required. The Council finds that should this Project be revised to become a hotel project in the future, such a revision would trigger complete new review by City staff and the need to file a revised master City development plan application. This application would undergo full new environmental review of any revised project.

6. Public Location of Environmental Review Documents. The location of documents and materials that constitute the environmental record of proceedings upon which this Council's decision to approve the Approved Project is based is at the City of Santa Barbara Community Development Department, Planning Division, 630 Garden Street, Santa Barbara, California, in the custody of Allison DeBusk, Project Planner, which is also the Lead Agency.

7. Mitigation Monitoring Program. A mitigation monitoring and reporting program (MMRP) for the Approved Project is hereby adopted, and mitigation measures have been imposed and made enforceable both by incorporation into the Approved Project description and by their inclusion as express and recorded conditions of the Project's approval.

8. Approval for the Approved Project Only. The City Council accepts the assurances from the Applicant that the Applicant has expressly withdrawn the Original Proposed Project from any further consideration because it has been superseded by the Approved Project. The required land-use approvals being issued by this Resolution and in the Council decision of March 9, 2010 are only for the Approved Project. The City will not consider nor will the City approve a proposal (whether from this Applicant or a subsequent applicant) for approval of the original Proposed Project unless and until the City has first conducted further environmental review as required for the Original Proposed Project pursuant to CEQA Guidelines section 15153(b).

9. Lack of Substantial Evidence of Impact Concerns. The Council is of the view that the appeal of the Planning Commission's Approval of the Approved Project filed by Citizens Planning Association and Allied Neighborhoods Association did not actually present or attempt to present any real evidence, in particular "substantial evidence based on expert testimony" (as required by CEQA), of any possible inadequacy of the Final Project EIR or of any potentially significant adverse impact on the environment which might be caused by or result from the Approved Project and, as a result, the appeal of the Planning Commission certification of the Final EIR is denied and the use of that EIR for a City approval of the Sandman Inn Redevelopment Project is fully appropriate. In this regard, the Council believes that the City staff report dated March 9, 2010 (along with the staff presentation presented during the appeal hearing on March 9, 2010) and the letter provided by Applicant's counsel dated February 25, 2010 in particular are fully responsive to the limited non-expert evidentiary assertions made by the Appellants in the appeal letters and other materials provided to the City.

As a result, the Council incorporates by reference the March 9, 2010 staff report and the February 25, 2010 Applicant's letter into these findings as though they are fully set forth herein and hereby determines that the evidence provided in those documents explaining the lack of any impact concerns to be convincing and to constitute adequate substantial evidence as that term is used in CEQA to support the Council's action of approval and denying the appeal.

10. Specific City Development Approvals and Approval of Recitals. The City Council determines that each of the above-stated recitals are true and correct and they fully and accurately reflect the record of the City's proceedings concerning this Project and the determinations and considerations which went into the Planning Commission's and ABR's and, thereafter, the City Council's decision to conditionally approve the Approved Project. These recitals also appropriately describe the scope of the City's review of the Sandman Inn Redevelopment Project Application and Project, in particular, the detailed review by the Planning Commission and the City Council (both with respect to individual

Commission and Council members and the City collectively) which has been conducted with respect to the Project since the time its original Application was filed with the City.

The City Council approves the requested Lot Line Adjustment pursuant to Santa Barbara Municipal Code Section 27.40, making the same findings contained in Planning Commission Resolution No. 046-09 for that Adjustment to the effect that the re-configured lots are fully consistent with the City's General Plan and Zoning Ordinance and, additionally, finding that this Adjustment approval is fully consistent with the limited authority allowed by the State Subdivision Map Act with respect to the approval or disapproval of a lot line adjustments to two legal parcels of land.

The City Council also approves the granting of the Sandman Inn Redevelopment Project request for a Development Plan approval pursuant to Santa Barbara Municipal Code Section 28.54.120, making the same findings in support of that Development Plan as the Planning Commission as described in Planning Commission Resolution No. 046-09 that the Approved Project development is fully consistent with the City's General Plan and City Zoning Ordinance and is compatible with adjacent development and provides adequate access and parking.

The City Council also approves the requested Lot Area Modification for the Approved Project pursuant to Santa Barbara Municipal Code Section 28.92.110, making the same findings in support of that Modification as the Planning Commission and as described in Planning Commission Resolution No. 046-09 that the modification is consistent with the purposes and intent of the City Zoning Ordinance and is necessary in order to construct an additional condominium housing unit that is affordable to a middle-income household.

The City Council also approves the Tentative Subdivision Map pursuant to Santa Barbara Municipal Code Section 27.07.100, making the same findings in support of that Map as are necessary and as described in Planning Commission Resolution No. 046-09 that the Map is fully consistent with the City's General Plan and Zoning Ordinance.

The Council also approves the New Condominium Development for the Approved Project pursuant to Santa Barbara Municipal Code Section 27.13.080 making the same findings in support of that development as are necessary and as that described in Planning Commission Resolution No. 046-09 that the condominium development is fully consistent with the City's General Plan and Zoning Ordinance, is an in-fill residential development that is consistent with the principles of sound community planning and will not have an adverse impact upon the neighborhood's aesthetics, parks, streets, traffic, parking and other community facilities.

11. Conditions of Approval and Mitigation Measures. The City Council also adopts the Sandman Inn Redevelopment Project Conditions of Approval dated December 17, 2009, as attached hereto as Exhibit A and imposes them as conditions of approval on the Approved Project in accordance with their terms.

EXHIBIT A
TO THE CITY COUNCIL FINDINGS RESOLUTION APPROVING
THE SANDMAN INN REDEVELOPMENT PROJECT
ADOPTED ON APRIL 20, 2010

PLANNING COMMISSION CONDITIONS OF APPROVAL

3714-3744 STATE STREET
LOT LINE ADJUSTMENT, DEVELOPMENT PLAN, TENTATIVE SUBDIVISION MAP, LOT AREA
MODIFICATION
DECEMBER 17, 2009

In consideration of the project approval granted by the Planning Commission and for the benefit of the owner(s) and occupant(s) of the Real Property, the owners and occupants of adjacent real property and the public generally, the following terms and conditions are imposed on the use, possession, and enjoyment of the Real Property:

- A. **California Department of Fish and Game Fees Required.** Pursuant to Section 21089(b) of the California Public Resources Code and Section 711.4 et. seq. of the California Fish and Game Code, the approval of this permit/project shall not be considered final unless the specified Department of Fish and Game fees are paid and filed with the California Department of Fish and Game within five days of the project approval. The fees required are \$2,768.25 for projects with Environmental Impact Reports and \$1,993.00 for projects with Negative Declarations. Without the appropriate fee, the Notice of Determination cannot be filed and the project approval is not operative, vested, or final. The fee shall be delivered to the Planning Division immediately upon project approval in the form of a check payable to the California Department of Fish and Game.
- B. **Design Review.** The project is subject to the review and approval of the Architectural Board of Review (ABR). ABR shall not grant preliminary approval of the project until the following Planning Commission land use conditions have been satisfied.

Exterior Residential Areas. Usable residential exterior areas (patios, balconies, courtyards) shall be oriented away from State Street to the extent feasible, and preferably shielded from roadways by the structures themselves. (N-3)

Pavement. The residential parking lot driveway shall be paved with a coating to reduce tire squeal. This coating would consist of granulate rubber made from used tires as its aggregate and urethane resin as its binder, or similar current industry standard. (N-4)

Tree Removal and Relocation. Prior to removal of any trees, a landscape plan accommodating the relocation of existing mature palm trees to the maximum extent reasonably feasible, particularly those considered “skyline trees” (tall [55 to 65 foot] Mexican Fan palms [Washingtonia robusta]), shall be submitted to and approved

by the ABR. This plan shall include planter design specifications to ensure the long-term growth and survival of the relocated trees. (VA-1)

Tree Removal. The landscape plan approved by the ABR shall include one significant replacement tree for each major mature (as determined by the City arborist) tree that is to be removed. (VA-2)

Storm Water Management Plan. An approved drainage plan, consistent with the City's Storm Water Management Plan, that utilizes natural Best Management Practices to the maximum extent feasible, as determined by the Creeks Division and Community Development Department, shall be incorporated into the project plans.

Screened Check Valve/Backflow. The check valve or anti-backflow devices for fire sprinkler and/or irrigation systems shall be provided in a location screened from public view or included in the exterior wall of the building.

Trash Enclosure Provision and Design. A trash enclosure with adequate area for recycling containers shall be provided on each property and screened from view from surrounding properties and the street. Dumpsters and containers with a capacity of 1.5 cubic yards or more shall not be placed within 5 feet of combustible walls, openings, or roofs unless protected with fire sprinklers. Project trash container areas shall incorporate approved long-term structural storm water best management practices (BMPs) to protect water quality. The applicant shall submit project plans to the satisfaction of Public Works Engineering and Solid Waste Department that incorporate long-term structural BMPs for trash storage areas to protect storm water quality. The owners shall maintain these structural storm water quality protections in working order for the life of the project, and shall inspect them at least annually and report to the City annually. (PS-2)

- C. **Recorded Conditions Agreement.** Prior to the issuance of any Public Works permit or Building permit for the project on the Real Property, the Owner shall execute an *Agreement Relating to Subdivision Map Conditions Imposed on Real Property*, which shall be reviewed as to form and content by the City Attorney, Community Development Director and Public Works Director, recorded in the Office of the County Recorder, and shall include the following:

Approved Development. The development of the Real Property approved by the Planning Commission on December 17, 2009 is limited to the following:

- a. A lot line adjustment creating Lot A (1.00 acre) and Lot B (3.58 acres).
- b. A Tentative Subdivision Map for a one-lot subdivision of Lot B for 73 dwelling units (2 one-bedroom units, 52 two-bedroom units and

19 three bedroom units; 11 of the units are affordable to middle-income homebuyers) totaling approximately 91,081 net square feet (including a 1,185 net square foot community room), and two commercial condominiums totaling approximately 1,686 square feet.

- c. A development plan approval for approximately 14,104 square feet of commercial building area on Lot A.
- d. Lots A and B will also be developed with a total of 241 parking spaces and the improvements shown on the Tentative Subdivision Map and project plans signed by the chairman of the Planning Commission on said date and on file at the City of Santa Barbara.

The proposed left-turn access from eastbound State Street into Lot B, as described in the Applicant Letter, is not included as part of the approved project in order to reduce potential conflicts with opposing traffic on State Street, reduce the potential for queuing left-turn vehicles to block through traffic and reduce potential impacts on pedestrians and bicyclists. (T-3)

Lot Line Adjustment – Non-residential Development (Measure E). As part of the lot line adjustment approval, all existing non-residential development rights for the real property (113 hotel rooms and accessory non-residential space, totaling approximately 52,000 square feet) are allocated to Lot A. Lot A and Lot B will each retain their respective minor and small addition allowances. A formal Agreement to this effect shall be recorded in the Office of the County Recorder as part of the Lot Line Adjustment.

Lot Line Adjustment – Residential Density. As part of the lot line adjustment approval, all rights to residential development on the real property are allocated to Lot B. A formal Agreement to this effect shall be recorded in the Office of the County Recorder as part of the Lot Line Adjustment.

Uninterrupted Water Flow. The Owner shall provide for the uninterrupted flow of water onto the Real Property including, but not limited to, swales, natural watercourses, conduits and any access road, as appropriate.

Recreational Vehicle Storage Prohibition. No recreational vehicles, boats, or trailers shall be stored on the Real Property.

Landscape Plan Compliance. The Owner shall comply with the Landscape Plan approved by the Architectural Board of Review (ABR). Such plan shall not be modified unless prior written approval is obtained from the ABR. The landscaping on the Real Property shall be provided and maintained in accordance with said landscape plan. If said landscaping is removed for any reason without approval by the ABR, the owner is responsible for its immediate replacement.

Storm Water Pollution Control and Drainage Systems Maintenance.

Owner shall maintain the drainage system and storm water pollution control devices intended to intercept siltation and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) in a functioning state (and in accordance with the Operations and Maintenance Procedure Plan prepared in accordance with the Storm Water Management Plan BMP Guidance Manual). Should any of the project's surface or subsurface drainage structures or storm water pollution control methods fail to capture, infiltrate, and/or treat water, or result in increased erosion, the Owner shall be responsible for any necessary repairs to the system and restoration of the eroded area. Should repairs or restoration become necessary, prior to the commencement of such repair or restoration work, the applicant shall submit a repair and restoration plan to the Community Development Director to determine if an amendment or a new Building Permit is required to authorize such work. The Owner is responsible for the adequacy of any project-related drainage facilities and for the continued maintenance thereof in a manner that will preclude any hazard to life, health, or damage to the Real Property or any adjoining property.

Ownership Unit Affordability Restrictions. The eleven dwelling units identified as Affordable on the Site Plan shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

- a. Unit Type H (2 units) (1-bedroom units @ 130%AMI)
= \$247,200
- b. Unit Type A (1 unit) (2-bedroom unit @ 130% AMI) =
\$309,500
- c. Unit Type D (1 unit) (2-bedroom unit @ 120% AMI) =
\$280,800
- d. Unit Type E (3 units) (2-bedroom units @ 120% AMI)
= \$280,800
- e. Unit Type C, C-1 (2 units) (3-bedroom units @ 130%
AMI) = \$350,800
- f. Unit Type G (2 units) (3-bedroom units @ 120% AMI)
= \$319,100

The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure

continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

Required Private Covenants. The Owners shall record in the official records of Santa Barbara County either private covenants, a reciprocal easement agreement, or a similar agreement which, among other things, shall provide for all of the following:

- g. **Common Area Maintenance.** An express method for the appropriate and regular maintenance of the common areas, common access ways, common utilities and other similar shared or common facilities or improvements of the development, which methodology shall also provide for an appropriate cost-sharing of such regular maintenance among the various owners of the condominium units.
- h. **Garages Available for Parking.** A covenant that includes a requirement that all garages be kept open and available for the parking of vehicles owned by the residents of the property in the manner for which the garages were designed and permitted.
- i. **Landscape Maintenance.** A covenant that provides that the landscaping shown on the approved Landscaping Plan shall be maintained and preserved at all times in accordance with the Plan.
- j. **Trash and Recycling.** Trash holding areas shall include recycling containers with at least equal capacity as the trash containers, and trash/recycling areas shall be easily accessed by the consumer and the trash hauler. Green waste shall either have containers adequate for the landscaping or be hauled off site by the landscaping maintenance company. If no green waste containers are provided for common interest developments, include an item in the CC&Rs stating that the green waste will be hauled off site.
- k. **Covenant Enforcement.** A covenant that permits each owner to contractually enforce the terms of the private covenants, reciprocal easement agreement, or similar agreement required by this condition.

Off-Site Parking Agreement. The Owner shall provide evidence of off-site parking agreements for the four parking spaces on the adjacent property to the west and for the 13 office spaces on Lot B for the benefit of the uses on Lot A. Said agreements shall be prepared consistent with the provisions outlined in SBMC Sub-Section 28.90.001.18.

Parking Access Drive and Ramp. Due to potential vehicle queuing conflicts with State Street circulation, gates or similar obstructions shall not be permitted on the driveway or underground access ramp.

- D. **Community Development Requirements Prior to Lot Line Adjustment.** The following shall be submitted as a part of processing the Lot Line Adjustment:

Existing Building Inventory. An accounting of all existing building square footage and hotel rooms shall be provided prior to demolition of the existing structures and prior to recordation of the Lot Line Adjustment. The Inventory shall be reviewed and approved by the Planning Division. This Inventory shall be reflected in all agreements related to the Lot Line Adjustment for proper accounting relative to the City's Non-residential Development (Measure E) regulations.

- E. **Public Works Submittal Prior to Final Map Approval.** The Owner shall submit the following, or evidence of completion of the following, to the Public Works Department for review and approval, prior to processing the approval of the Final Map and prior to the issuance of any permits for the project:

Lot Line Adjustment Required. The Owner shall submit an executed *Agreement Related to the Lot Line Adjustment, Quitclaim Deed and Acceptance Thereof* to the Public Works Department, including the legal description of the existing subject properties, and the legal description of the adjusted parcels as a part of processing the Lot Line Adjustment. A licensed surveyor shall prepare the legal description and said Agreement shall be recorded in the Office of the County Recorder. *The Lot Line Adjustment shall be recorded prior to recordation of the Final Map.*

Water Rights Assignment Agreement. As a condition of recording the Lot Line Adjustment, the Owner shall assign to the City of Santa Barbara the exclusive right to extract ground water from under the Real Property in an *Agreement Assigning Water Extraction Rights*. Engineering Division Staff will prepare said agreement for the Owner's signature.

Final Map for One-lot Subdivision on Lot B (Designated on Tentative Map as Lot 1). The Owner shall submit to the Public Works Department for approval, a Final Map prepared by a licensed land surveyor or registered Civil Engineer. The Final Map shall conform to the requirements of the City Survey Control Ordinance.

Dedication(s). Easements as shown on the approved Tentative Subdivision Map or the Lot Line Adjustment and described as follows, subject to approval of the easement scope and location by the Public Works Department and/or the Building and Safety Division:

- a. All street purposes along State Street across Lots A and B in order to establish four additional feet of public right-of-way in order to establish a minimum of a twelve-foot wide strip for sidewalk, parkway and all street purposes.

- b. An Easement in Gross to the City of Santa Barbara for Water Meter Reading Purposes, as shown on the approved Tentative Map.
- c. An Easement in Gross to the City of Santa Barbara for Public Utility Purposes as shown on the approved Tentative Map.
- d. A variable width easement across Lot B for ingress, egress, parking, private storm drainage, public and private utilities (sewer and water) purposes, and emergency access for the benefit of Lot A as shown on the approved Tentative Map.

Required Private Covenants. The Owner shall submit a copy of the draft private covenants, reciprocal easement agreement, or similar private agreements required for the project.

Hydrology Report. The Owner shall submit a final hydrology report prepared by a registered civil engineer or licensed architect demonstrating that the new development will not increase runoff amounts above existing conditions for a 25-year storm event. Any increase in runoff shall be retained on-site.

Drainage and Water Quality. Project drainage shall be designed, installed, and maintained such that stormwater runoff from the first inch of rain from any storm event shall be retained and treated onsite in accordance with the City's NPDES Storm Water Management Program. Runoff should be directed into a passive water treatment method such as a bioswale, landscape feature (planter beds and/or lawns), infiltration trench, etc. Project plans for grading, drainage, stormwater treatment methods, and project development, shall be subject to review and approval by City Building Division and Public Works Department. Sufficient engineered design and adequate measures shall be employed to ensure that no significant construction-related or long-term effects from increased runoff, erosion and sedimentation, urban water pollutants or groundwater pollutants would result from the project. The Owner shall maintain the drainage system and storm water pollution control methods in a functioning state.

The Owner shall provide an Operations and Maintenance Procedure Plan (describing replacement schedules for pollution absorbing pillows, etc.) for the operation and use of the storm drain surface pollutant interceptors. The Plan shall be reviewed and approved consistent with the Storm Water Management Plan BMP Guidance Manual.

State Street Public Improvement Plans. The Owner shall submit C-1 public improvement plans for construction of improvements along the property frontage for both the condominium site (Lot B), and the site for the office buildings (Lot A) on State Street. Public Works C-1 plans shall be submitted separately from plans submitted for a Building Permit. As determined by the Public Works Department, the improvements shall include new and/or

remove and replace to City standards, the following: *an extension of the State Street center median by approximately 75 linear feet, an MTD approved lighted bus stop with trash receptacle, eight-foot sidewalk, four-foot parkway, curb and gutter, two commercial style driveway aprons modified to meet Title 24 requirements, right-turn only striping and signage, replace two existing Cobra Head street lights with two commercial Dome Style street lights, slurry seal to the centerline of the street along entire subject property frontage and a minimum of 20 feet beyond the limits of all trenching, connection to City water and sewer mains, public drainage improvements with supporting drainage calculations or hydrology report for installation of on-site drainage improvements, on-site detention, and connection to City storm drain, preserve and/or reset survey monuments and contractor stamps, on-site retention sized per drainage calculations, supply and install directional/regulatory traffic control signs per 2006 CA MUTCD, new street trees species (Lophostemon Conferta) and box size (36-inch) as determined by the City Arborist, and provide adequate positive drainage from site. Any work in the public right-of-way requires a Public Works Permit.*

9. **Hitchcock Way Improvement Plans.** Flow calculations modeling the existing capacity and proposed impacts on the existing sewer main shall be required prior to issuance of any permits. If current flow is found to exceed design capacity, *and* project contribution adds more than 10% to the existing flow, then an upgrade to the existing sewer system shall be required. If the existing flow is found to be less than the design capacity, but the new flow exceeds the design capacity by more than 10%, then an upgrade to the existing sewer system shall be required. Analysis and design for a *+/-420 linear foot extension of 18 inch sewer main, and construct a City standard manhole at the intersection of Hitchcock and State Street shall be prepared, subject to the most current version of the City of Santa Barbara Engineering Design Guidelines.* In the event of a required upgrade of existing infrastructure, the Owner shall submit new C-1 public improvement plans. Any work in the public right-of-way requires a Public Works Permit.
10. **State Street Median.** The Owner shall submit C-1 public improvement plans for construction of extending the existing raised median in front of the site on State Street identified in condition D.8 above, *which shall be extended to the east, to restrict left-turns into the site. The applicant shall work with City Transportation staff to determine what modifications to the existing raised median are required to adequately accommodate the extended median, and shall confer with the City Arborist to see if new street trees are appropriate for the median. A new "No U Turn" sign shall be provided at the new eastern end of the raised median. The revised median design shall be reviewed and approved by the City's Transportation Division and the City Engineer. (T-5)*

Storm Drain System Stenciling and Signage. Within the project area, the applicant shall implement stenciling of all storm drain inlets and catch basins, and posting of signs at all public access points along channels and creeks, with language in English and Spanish and graphic icons prohibiting dumping, per approved plans. The applicant shall submit project plans to the satisfaction of Public Works Engineering that identify storm drain inlet locations throughout the project area, and specified wording and design treatment for stenciling of storm drain inlets and signage for public access points that prohibit dumping. The owners association shall maintain ongoing legibility of the stenciling and signage for the life of the project, and shall inspect at least annually and submit report annually. (W-3)

Land Development Agreement. The Owner shall submit an executed *Agreement for Land Development Improvements*, prepared by the Engineering Division, an Engineer's Estimate, signed, and stamped by a registered civil engineer, and securities for construction of improvements prior to execution of the agreement.

Removal or Relocation of Public Facilities. Removal or relocation of any public utilities or structures must be performed by the Owner or by the person or persons having ownership or control thereof.

- F. **Public Works Requirements Prior to Building Permit Issuance.** The Owner shall submit the following, or evidence of completion of the following to the Public Works Department for review and approval, prior to the issuance of a Building Permit for the project.

Recordation of Final Map and Agreements. After City Council approval, the Owner shall provide evidence of recordation to the Public Works Department.

Approved Public Improvement Plans and Concurrent Issuance of Public Works Permit. Upon acceptance of the approved public improvement plans, a Public Works permit shall be issued concurrently with a Building permit.

Bicycle Parking. At least 10 bicycle parking spaces shall be provided in close proximity to the non-residential development, subject to approval by the Transportation Division.

Commercial Parking Spaces.

- a. Commercial parking spaces located in the residential parking garage should be assigned to specific users to ensure greater use of the spaces. (T-8)
- b. Spaces located along the office access driveway that are included in the total number of spaces required to meet the parking code requirement for the office use, should be marked as "for office use only" during business hours. (T-9)

- c. The underground off-site commercial parking spaces shall be constructed and available for use, or an off-site parking agreement must be accepted by the City and recorded with the County Recorder, prior to Certificate of Occupancy of the commercial building.

Traffic Control Plan. A traffic control plan for project construction shall be submitted, as specified in the City of Santa Barbara Traffic Control Guidelines. Traffic Control Plans are subject to approval by the Public Works Director/Transportation Manager. Construction and storage in the public right-of-way is prohibited during Fiesta in the affected areas (around McKenzie Park, Downtown and Waterfront) and during the Holiday Shopping Season (between Thanksgiving Day and New Years Day) in all commercial shopping areas, including but not limited to Upper State Street, the Mesa shopping area, Downtown and Coast Village Road.

Construction Parking/Storage/Staging. Prior to issuance of building permits, the applicant shall prepare a management plan for review and approval by City staff for employee parking to eliminate intrusion into area on-street parking spaces and maximize use of available on-site parking.

Construction parking and storage shall be provided as follows:

- During construction, free parking spaces for construction workers and construction shall be provided on-site or off-site in a location subject to the approval of the Public Works Director. Construction workers are prohibited from parking within the public right-of-way, except as outlined below.
- Parking in the public right of way is permitted as posted by Municipal Code, as reasonably allowed for in the 2006 Greenbook (or latest reference), and with a Public Works permit in restricted parking zones. No more than three (3) individual parking permits without extensions may be issued for the life of the project.
- Storage or staging of construction materials and equipment within the public right-of-way shall not be permitted, unless approved by the Transportation Manager.

(T-12)

Construction Management Plan. Prior to issuance of building permits, the applicant shall prepare a construction management plan for review and approval by City staff. Prior to beginning the next phase of construction, review the plan with City Engineering staff and modify as needed to ensure coordination with other area construction projects to minimize any lane closures or traffic intensive activities.

The construction management plan shall provide for:

- No hauling of bulk materials and waste shall occur during peak traffic hours.
- Hauling of materials shall be limited along streets that have fronting residential land uses or near school sites.
- Flagmen shall be provided at the project's truck entrance to expedite movements into and out of the site.
- Access of all but essential construction traffic on San Remo Drive shall be limited.
- Any lane closures required along State Street for construction should be done during off-peak hours and all lanes should be open for travel during the peak commute hours and on weekends.

(T-11)

Solid Waste Management Plan. To reduce trips associated with export of site debris, prior to issuance of grading and/or demolition permits, the applicant shall develop and implement a solid waste management plan for review and approval by the City to reduce waste generated by construction and demolition activities (see condition H.3 for additional information). In addition, the applicant shall work with other development projects in the area to minimize the distance that export material is hauled from the site and manage the hours during which that hauling occurs to minimize the effects on area traffic. (T-10)

Minimization of Storm Water Pollutants of Concern. The applicant shall implement approved plans incorporating long-term storm water best management practices (BMPs) to minimize identified storm water pollutants of concern including automobile oil, grease and metals. The applicant shall submit project plans incorporating long-term BMPs to minimize storm water pollutants of concern to the extent feasible, and obtain approval from Public Works Engineering. The owners association shall maintain approved facilities in working order for the life of the project, and shall inspect annually and submit report to City annually. (W-2)

G. **Community Development Requirements with the Building or Public Works Permit Application.** The following shall be submitted with the application for any Building or Public Works permit:

Project Environmental Coordinator Required. Submit to the Planning Division a contract with a qualified representative for the Owner, subject to approval of the contract and the representative by the Planning Division, to act as the Project Environmental Coordinator (PEC). The PEC shall be responsible for assuring full compliance with the provisions of the Mitigation Monitoring and Reporting Program (MMRP) and Conditions of Approval to the City. The contract shall include the following, at a minimum:

- a. The frequency and/or schedule of the monitoring of the mitigation measures.
- b. A method for monitoring the mitigation measures.
- c. A list of reporting procedures, including the responsible party, and frequency.
- d. A list of other monitors to be hired, if applicable, and their qualifications.
- e. Submittal of weekly reports during demolition, grading and excavation, and monthly reports on all other construction activity regarding MMRP and condition compliance by the PEC to the Community Development Department/Case Planner.
- f. The PEC shall have authority over all other monitors/specialists, the contractor, and all construction personnel for those actions that relate to the items listed in the MMRP and conditions of approval, including the authority to stop work, if necessary, to achieve compliance with mitigation measures.

Neighborhood Notification Prior to Construction. At least thirty (30) days prior to commencement of construction, the contractor shall provide written notice to all property owners and building occupants within 450 feet of the project area that proposed construction activities could substantially affect outdoor or indoor living areas. The notice shall contain a description of the project, a construction schedule including days and hours of construction, a description of noise-reduction measures, and the name and phone number of the Project Environmental Coordinator (PEC) who can answer questions and provide additional information or address problems that may arise associated with construction noise. A 24-hour construction hot line shall be provided. Any noise complaints received shall be documented, and, as appropriate, construction activities shall be modified to the extent feasible to address such complaints. Informational signs with the PEC's name and telephone number shall also be posted at the site and shall be easily viewed from adjacent public areas. (N-6)

The language of the notice and the mailing list shall be reviewed and approved by the Planning Division prior to being distributed. An affidavit signed by the person(s) who compiled the mailing list shall be submitted to the Planning Division.

Contractor and Subcontractor Notification. The Owner shall notify in writing all contractors and subcontractors of the site rules, restrictions, and Conditions of Approval. Submit a copy of the notice to the Planning Division.

Window Replacement. The applicant shall offer to have a minimum 4-millimeter-thick, double-paned glass installed in the first- and

second-story windows of the residences that face the project site.
(N-11)

Evidence of the offer shall be provided to the Planning Division, and any residences that accepted the offer shall have their replacement windows installed prior to issuance of a building permit. Evidence of any window replacements shall be provided to the Planning Division.

Air Conditioning. The applicant shall offer to install temporary air conditioning in those residential units adjacent to the project site that do not already have this feature to allow residents to keep their windows closed during construction activities. (N-12)

Evidence of the offer shall be provided to the Planning Division, and any residences that accepted the offer shall have their temporary air conditioning installed prior to issuance of a building permit. Evidence of compliance shall be provided to the Planning Division.

Parks and Recreation Commission Tree Removal Approval. Submit to the Planning Division verification of approval from the Parks and Recreation Commission for the removal of all trees located within the required front setback and street trees.

Geotechnical Recommendations. Site preparation and project construction related to soil conditions and seismic hazards shall be in accordance with the recommendations contained in the Soils Engineering Report, prepared by Earth Systems Pacific, dated September 25, 2003. Compliance shall be demonstrated on plans submitted for grading and building permits. (G-1)

Recorded Affordability Covenant. Submit to the Planning Division a copy of an affordability control covenant that has been approved as to form and content by the City Attorney and Community Development Director, and recorded in the Office of the County Recorder, which includes the following:

- g. **Initial Sale Price Restrictions.** The eleven (11) dwelling units identified as Affordable on the Site Plan shall be designated as Affordable Middle Income Units and sold only to households who, at the time of their purchase, qualify as Middle Income Households as defined in the City's adopted Affordable Housing Policies and Procedures. The maximum sale prices upon initial sale shall not exceed the following:

(1) Unit Type H (2 units) (1-bedroom units @ 130% AMI) = \$247,200

(2) Unit Type A (1 unit) (2-bedroom unit @ 130% AMI) = \$309,500

(3) D (1 unit) (2-bedroom unit @ 120% AMI) = \$280,800

(4) Unit Type E (3 units) (2-bedroom units @ 120% AMI) = \$280,800

(5) Unit Type C, C-1 (2 units) (3-bedroom units @ 130% AMI) = \$350,800

(6) Unit Type G (2 units) (3-bedroom units @ 120 % AMI) = \$319,100

- h. **Resale Restrictions.** The Affordable Units shall be sold and occupied in conformance with the City's adopted Affordable Housing Policies and Procedures. The resale prices of the Affordable Units shall be controlled by means of a recorded affordability covenant executed by Owner and the City to assure continued affordability for at least ninety (90) years from the initial sale of the affordable unit. No affordable unit may be rented prior to its initial sale.

Letter of Commitment for Pre-Construction Conference. The Owner shall submit to the Planning Division a letter of commitment that states that, prior to disturbing any part of the project site for any reason and after the Building permit has been issued, the General Contractor shall schedule a conference to review site conditions, construction schedule, construction conditions, and environmental monitoring requirements. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, the assigned Building Inspector, the Planning Division, the Property Owner, the Architect, the Landscape Architect, the Biologist, the Project Engineer, the Project Environmental Coordinator, the Contractor and each subcontractor.

- H. **Building Permit Plan Requirements.** The following requirements/notes shall be incorporated into the construction plans submitted to the Building and Safety Division for Building permits:

Design Review Requirements. Plans shall show all design, landscape and tree protection elements, as approved by the Architectural Board of Review, outlined in Section B above.

Mitigation Monitoring and Reporting Requirement. Owner shall implement the Mitigation Monitoring and Reporting Program (MMRP) for the project's mitigation measures, as stated in the Environmental Impact Report for the project.

Grading Plan Requirement for Archaeological Resources. The following information shall be printed on the grading plans:

If archaeological resources are encountered or suspected, work shall be halted or redirected immediately and the Planning Division shall be notified. The archaeologist shall assess the nature, extent, and significance of any discoveries and develop appropriate management recommendations for archaeological resource treatment, which may

include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Planning Division grants authorization.

Post-Construction Erosion Control and Water Quality Plan. Provide an engineered drainage plan that addresses the existing drainage patterns and leads towards improvement of the quality and rate of water run-off conditions from the site by capturing, infiltrating, and/or treating drainage and preventing erosion. The Owner shall employ passive water quality methods, such as bioswales, catch basins, or storm drain on the Real Property, or other measures specified in the Erosion Control Plan, to intercept all sediment and other potential pollutants (including, but not limited to, hydrocarbons, fecal bacteria, herbicides, fertilizers, etc.) from the parking lot areas and other improved, hard-surfaced areas prior to discharge into the public storm drain system, including any creeks. All proposed methods shall be reviewed and approved by the Public Works Department and the Community Development Department. Maintenance of these facilities shall be provided by the Owner, which shall include the regular sweeping and/or vacuuming of parking areas and drainage and storm water methods maintenance program.

Construction Erosion/Sedimentation Control Plan. Project grading and construction shall be conducted in accordance with an approved erosion control plan to protect water quality throughout the duration of site preparation, earthwork, and construction process. Prior to the issuance of a demolition or building permit for the proposed project, the applicant or project developer shall prepare an erosion control plan that is consistent with the requirements outlined in the Procedures for the Control of Runoff into Storm Drains and Watercourses and the Building and Safety

Division Erosion/Sedimentation Control Policy (2003). The erosion control/water quality protection plan shall specify how the required water quality protection procedures are to be designed, implemented, and maintained over the duration of the development project. A copy of the plan shall be submitted to the Community Development and Public Works Departments for review and approval, and a copy of the approved plan shall be kept at the project site.

At a minimum, the erosion control/water quality protection plan prepared for the proposed project shall address the implementation, installation, and/or maintenance of each of the following water resource protection strategies: paving and grinding, sandbag barriers, spill prevention/control, solid waste management, storm drain inlet protection, stabilize site entrances and exits, illicit connections and illegal discharges, water conservation, stockpile management, liquid wastes, street sweeping and vacuuming, concrete waste management, sanitary/septic waste management, vehicle and equipment maintenance, vehicle and equipment cleaning, and vehicle and equipment fueling. (W-1)

Dust Mitigation - Plan Specifications. Prior to grading permit clearance, the applicant shall include all dust control requirements as notes on construction grading and building plans. (AQ-9)

Interior Noise Reduction for Office and Residential Units Near State Street. The walls, doors, and windows of office units adjacent to State Street shall be constructed to include sufficient noise attenuation to reduce interior levels to a CNEL of 50 dB(A). (N-15) The walls, doors, and windows of residential units closest to State Street shall be constructed to include sufficient noise attenuation to reduce interior noise levels to a CNEL of 45 dB(A). (N-14)

The applicant shall submit an updated Noise Report demonstrating that the project satisfies the above-referenced noise levels. Said Report shall identify any noise attenuation measures needed to satisfy the noise requirement, which may include:

- a. Windows shall have a minimum Standard Transmission Class (STC) of 35 and be properly installed, weather-stripped, and insulated.
- b. Doors with a minimum STC of 35 shall be used for doorways facing State Street and shall be insulated in conformance with California Title 24 requirements.
- c. Roof or attic vents facing State Street shall be baffled.
- d. Air conditioning or a mechanical ventilation system shall be installed in any dwelling units outside the 60 dB noise corridor so

that windows and doors may remain closed. Ventilation systems shall be installed and operable prior to Certificate of Occupancy.

Left Turns. Prohibit left turns onto State Street from the residential parking lot to eliminate sudden car accelerations that could otherwise occur when making this turn. (N-5)

Stop Sign. A "STOP" sign and a painted stop bar and legend shall be provided at each driveway exit.

Street/Traffic Control Sign. The Owner must furnish and install traffic control sign(s) to Public Works Department construction standards, as determined by the Transportation Division.

Project Directory. A project directory, (including map and parking directional signs) listing all units on-site shall be indicated on the project plans. This directory shall be lit sufficiently for readability for site visitors and placed in a location or locations acceptable to the Fire Department, shall meet current accessibility requirements, and is subject to Sign Committee Approval.

Conditions on Plans/Signatures. The final Planning Commission Resolution shall be provided on a full size drawing sheet as part of the drawing sets. Each condition shall have a sheet and/or note reference to verify condition compliance. If the condition relates to a document submittal, indicate the status of the submittal (e.g., Final Map submitted to Public Works Department for review). A statement shall also be placed on the above sheet as follows: The undersigned have read and understand the above conditions, and agree to abide by any and all conditions which is their usual and customary responsibility to perform, and which are within their authority to perform.

Signed:

_____ Property Owner	_____ Date	
_____ Contractor	_____ Date	_____ License No.
_____ Architect	_____ Date	_____ License No.
_____ Engineer	_____ Date	_____ License No.

- I. **Construction Implementation Requirements.** All of these construction requirements shall be carried out in the field by the Owner and/or Contractor for the duration of the project construction.

Pre-Construction Conference. Not less than 10 days or more than 20 days prior to commencement of construction, a conference to

review site conditions, construction schedule, construction conditions, and environmental monitoring requirements, shall be held by the General Contractor. The conference shall include representatives from the Public Works Department Engineering and Transportation Divisions, Building Division, Planning Division, the Property Owner, Architect, Landscape Architect, Biologist, Project Engineer, Project Environmental Coordinator, Contractor and each Subcontractor.

Seasonal Restriction. Removal of trees during initial site development should be limited to the time period between September 1 and January 31. If tree removal or construction is to occur during the bird nesting season (February 1 through August 31), a City-approved biologist shall conduct a survey at the site for active nests two weeks prior to any scheduled tree removal, tree pruning, development, or grading. If active nests are located, setbacks for construction work would be required until the nest is no longer active or the young have fledged. If no active nests are found, the construction, tree removal, or grading restrictions specified in this section shall not apply. (BIO-1)

Waste Management Plan. The applicant shall develop and implement a solid waste management plan to reduce waste generated by construction and demolition activities. Consistent with City of Santa Barbara ordinances, and in order to achieve the waste diversion goals required by state law, the contractor may choose to separate waste and recyclables on site or use a combination of source separation and a construction and demolition (C&D) sorting facility. The solid waste management plan shall include the following:

- a. Contact information: The name and contact information of who will be responsible for implementing the solid waste management plan.
- b. Waste assessment: A brief description of the proposed project wastes to be generated, including types and estimated quantities during the construction phase of this project. Demolition and construction materials shall be recycled or reused, consistent with ordinance Chapter 7
- c. Recycling and waste collection areas: Waste sorting and/or collection and/or recycling areas shall be clearly indicated on the project plans and approved by the City Solid Waste Specialist.
- d. Transportation: A description of the means of transportation of recyclable materials and waste (whether materials will be site-separated and self-hauled to designated centers, or whether mixed materials will be collected by a waste hauler and removed from the site to be processed) and destination of materials.

- e. Landfill information: The name of the landfill(s) where trash will be disposed of and a projected amount of material that will be landfilled.
- f. Meetings: A description of meetings to be held between applicant and contractor to ensure compliance with the site solid waste management plan.
- g. Alternatives to landfilling: A list of each material proposed to be salvaged, reused, or recycled during the course of the project.
- h. Contingency Plan: An alternate location to recycle and/or stockpile C&D in the event of local recycling facilities becoming unable to accept material (for example: all local recycling facilities reaching the maximum tons per day due to a time period of unusually large volume).
- i. Implementation and documentation of solid waste management plan:
 - (1) Manager: The permit applicant or contractor shall designate an on-site party (or parties) responsible for instructing workers and overseeing and documenting results of the solid waste management plan for the project site foreman. The contact will notify the Public Works Department immediately should any deviance from the solid waste management plan be necessary.
 - (2) Distribution: The contractor shall distribute copies of the solid waste management Plan to the job site foremen, impacted subcontractors, and the architect.
 - (3) Instruction: The permit applicant or contractor shall provide on-site instruction of appropriate separation, handling, and recycling, salvage, reuse, and return methods to be used by all parties at the appropriate stages of project development.
 - (4) Separation and/or collection areas: The permit applicant or contractor shall ensure that the approved recycling and waste collection areas are designated on site.
 - (5) Construction of recycling and waste container facilities: Inspection shall be made by Public Works to ensure the appropriate storage facilities are created in accordance with AB 2176, California State Public Resources Code 42911 and City of Santa Barbara Zoning Ordinances.
 - (6) Hazardous wastes: Hazardous wastes shall be separated, stored, and disposed of according to federal, state, and local regulations.
 - (7) Documentation: The contractor shall submit evidence at each inspection to show that recycling and/or reuse goals are being met and a summary of waste generated by the project shall be submitted on a monthly basis. Failure to submit this information

shall be grounds for a stop work order. The summary shall be submitted on a form acceptable to the Public Works Department and shall contain the following information:

- Disposal information: amount (in tons or cubic yards) of material landfilled; identity of the landfill; total amount of tipping fees paid at the landfill; weight tickets, manifests, receipts, and invoices (attach copies).
 - Recycling information: amount and type of material (in tons or cubic yards); receiving party; manifests, weight tickets, receipts, and invoices (attach copies).
 - Reuse and salvage information: list of items salvaged for reuse on project or campus (if any); amount (in tons or cubic yards); receiving party or storage location.
- (8) Contingency Plan: The permit applicant or contractor shall detail the location and recycling of stockpiled material in the event of the implementation of a contingency plan.

Construction-Related Truck Trips. Construction-related truck trips shall not be scheduled during peak hours (7:00 a.m. to 9:00 a.m. and 4:00 p.m. to 6:00 p.m.). The purpose of this condition is to help reduce truck traffic on adjacent streets and roadways.

Construction Related Traffic Routes. The route of construction-related traffic shall be established to minimize trips through surrounding residential neighborhoods, subject to approval by the Transportation Manager

Haul Routes. The haul route(s) for all construction-related trucks with a gross vehicle weight rating of three tons or more, entering or exiting the site, shall be approved by the Transportation Manager.

Traffic Control Plan. All elements of the approved Traffic Control Plan and Construction Management Plan shall be carried out by the Contractor.

Construction Hours. Noise-generating construction activities (which may include preparation for construction work) shall be permitted weekdays between the hours of 8:00 AM and 5:00 PM, excluding holidays observed by the City of Santa Barbara as legal holidays, as shown below:

New Year's Day	January 1st*
Martin Luther King's Birthday	3rd Monday in January
Presidents' Day	3rd Monday in February
Cesar Chavez Day	March 31
Memorial Day	Last Monday in May
Independence Day	July 4th*
Labor Day	1st Monday in September
Thanksgiving Day	4th Thursday in November
Day Following Thanksgiving Day	Friday following Thanksgiving Day
Christmas Day	December 25th*

*When a holiday falls on a Saturday or Sunday, the preceding Friday or following Monday, respectively, shall be observed as a legal holiday.

Occasional night work may be approved for the hours between 8:00 PM and 7:00 AM weekdays by the Chief of Building and Zoning (per Section 9.16.015 of the Municipal Code). These occasional work efforts may include concrete pours for the underground garage footings, floor and deck, if approved by the Chief of Building and Zoning. In the event of such night work approval, the applicant shall provide written notice to all property owners and occupants within 450 feet of the project property boundary and the City Planning and Building Divisions at least 48 hours prior to commencement of night work. Night work shall not be permitted on weekends or holidays. (N-7)

Construction Equipment Sound Barrier. Stationary construction equipment that generates noise that exceeds 50 dB(A) at the property boundaries shall be shielded with a barrier that meets a STC rating of 25. (N-8)

Construction Equipment Sound Control. All construction equipment powered by internal combustion engines shall be properly muffled and maintained. No internal combustion engine shall be operated on the site without a muffler. All diesel equipment shall be operated with closed engine doors and shall be equipped with factory-recommended mufflers. Unnecessary idling of internal combustion engines shall be prohibited. (N-9)

Construction Noise Barrier. Air compressors and generators used for construction shall be surrounded by temporary acoustical shelters. Whenever feasible, electrical power shall be used to run air compressors and similar power tools. (N-10)

Construction Sound Barrier Wall. Install a temporary construction sound barrier wall along the northern half of the western edge of the project site, the entire northern end of the site, and the northern half of the eastern edge of the project site. The barrier should be made of sound-attenuating material (not landscaping). The noise barrier can be constructed from concrete, masonry, wood, metal, or other materials determined to be appropriate by the City. To effectively reduce sound transmission through the barrier, the

material chosen must be rigid and sufficiently dense (at least 20 kilograms/square meter). All noise barrier material types are equally effective, acoustically, if they have this density. The barrier shall be of sufficient height to block direct line of sight to the first story of adjacent residential uses. It is estimated that a noise barrier of the prescribed density would reduce average noise levels to sensitive receptors by up to 5 dB if the barrier blocks direct line of sight, and an additional 1.5 dB for each meter of barrier height for those uses blocked from direct line of sight. (N-13)

Dust Mitigation - Site Watering. During site grading and transportation of fill materials, regular water sprinkling shall occur, using reclaimed water whenever the Public Works Director determines that it is reasonably available. Water trucks or sprinkler systems shall be used in the late morning; during clearing, grading, earth moving, or transportation of cut and fill materials; and after work is completed for the day to prevent dust from leaving the project site and to create a crust after each day's activities cease. Reclaimed water shall be used if available. Each day, after construction activities cease, the entire area of disturbed soil shall be sufficiently moistened to create a crust.

Throughout construction, water trucks or sprinkler systems shall also be used to keep all areas of vehicle movement damp enough to prevent dust raised from leaving the site. At a minimum, this will include wetting down such areas in the late morning and after work is completed for the day. Frequency of construction site watering shall be increased when wind speeds exceed 15 miles per hour (mph) to reduce PM10 emissions. (AQ-1)

Dust Mitigation - Speed Limit. An on-site speed limit of 15 miles per hour shall be imposed for operation of construction vehicles on dirt surfaces. (AQ-2)

Dust Mitigation - Gravel Pad/Street Sweepings. Gravel pads shall be installed at all access points prior to beginning construction to prevent tracking of mud onto public roads.

Streets adjacent to the project site shall be inspected daily for accumulation of mud, dirt, or silt on streets. Affected road segments shall be cleaned daily. (AQ-3)

Dust Mitigation - Stockpile Treatment. All stockpiled soil materials shall be watered regularly as needed to inhibit dust generation. Excavated material and stockpiled soil shall be covered if not being used within the next 48 hours. (AQ-4)

Dust Mitigation - Grading Suspension. Grading and scraping operations will be suspended when wind speeds exceed 20 mph to reduce PM10 emissions. (AQ-5)

Dust Mitigation - Site Stabilization. Disturbed areas will be permanently stabilized with landscaping ground cover or site improvements as soon as practicable following the completion of earthwork.

After clearing, grading, earth moving, or excavation is completed, the entire area of disturbed soil shall be treated to prevent wind pickup of soil. This may be accomplished by

- a. seeding and watering until grass cover is grown;
- b. spreading soil binders;
- c. sufficiently wetting the area down to form a crust on the surface with repeated soakings as necessary to maintain the crust and prevent dust pickup by the wind;
- d. other methods approved in advance by the Air Pollution Control District.

All roadways, driveways, sidewalks, etc., shall be paved as soon as possible. Additionally, building pads shall be laid as soon as possible after grading unless seeding or soil binders are used. (AQ-6)

Dust Mitigation - Truck Covering. All trucks hauling dirt, sand, soil, or other loose materials are to be covered or should maintain at least 2 feet of freeboard in accordance with the requirements of California Vehicle Code (CVC) section 23114 ("freeboard" means vertical space between the top of the load and top of the trailer). (AQ-7)

Dust Mitigation - Monitor. The contractor shall designate a person or persons to monitor the dust control program and to order increased watering, as necessary, to prevent transport of dust off site. Their duties shall include holiday and weekend periods when work may not be in progress. The name and telephone number of such persons shall be provided to the City and SBCAPCD prior to permit clearance for grading. (AQ-8)

Diesel Vehicle Emissions Control. Operators of diesel-powered vehicles should turn off the engine after 5 minutes when the vehicle is not in motion, keep the vehicles well-tuned and maintained, and retrofit engines with pollution-control devices. Consideration should be given to purchasing trucks and buses that meet new US EPA standards ahead of schedule. Vehicle owners should use ultra-low-sulfur fuel in combination with pollution control equipment such as particulate matter filters. (AQ-10)

Construction Equipment Emissions. As of June 15, 2008, fleet owners are subject to sections 2449, 2449.1, 2449.2, and 2449.3 in Title 13, Article 4.8, Chapter 9, of the California Code of Regulations (CCR) to reduce diesel particulate matter and criteria pollutant

emissions from in-use off-road diesel-fueled vehicles. The following shall be adhered to during project grading and construction to reduce NOX and PM2.5 emissions from construction equipment:

- All portable construction equipment shall be registered with the state's portable equipment registration program OR permitted by the district by September 18, 2008.
- Diesel construction equipment meeting the California Air Resources Board's Tier 1 emission standards for off-road heavy-duty diesel engines shall be used. Equipment meeting Tier 2 or higher emission standards should be used to the maximum extent feasible.
- The engine size of construction equipment shall be the minimum practical size.
- The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number is operating at any one time.
- Construction equipment shall be maintained in tune per the manufacturer's specifications.
- Construction equipment operating on site shall be equipped with two- to four-degree engine timing retard or pre-combustion chamber engines.
- Catalytic converters shall be installed on gasoline-powered equipment, if feasible.
- Diesel catalytic converters, diesel oxidation catalysts and diesel particulate filters as certified and/or verified by US EPA or California shall be installed on equipment operating on site.
- Diesel powered equipment should be replaced by electric equipment whenever feasible.
- Idling of heavy-duty diesel trucks during loading and unloading shall be limited to five minutes; auxiliary power units should be used whenever possible.

(AQ-11)

Construction Equipment Operations. The number of construction equipment operating simultaneously shall be minimized through efficient management practices to ensure that the smallest practical number of equipment is operating at any one time. The construction contractor shall ensure that work crews shut off equipment when not in use. In addition, California's more recent anti idling regulations (with some exemptions) require that drivers of diesel fueled commercial vehicles weighing more than

10,000 pounds (1) shall not idle the vehicle's primary diesel engine for greater than 5 minutes at any location, and (2) shall not use diesel fueled auxiliary power units for more than 5 minutes to power a heater, air conditioner, or any ancillary equipment on the vehicle equipped with a sleeper berth, at any location. (AQ-12)

Architectural Coating Emissions. Compliance with the SBCAPCD Rules and Regulations on the use of architectural coatings shall be implemented as applicable, including using pre-coated/natural-colored building materials, using water-based or low-ROC coating, and using coating transfer or spray equipment with high transfer efficiency. (AQ-13)

Asbestos. The project applicant shall complete and submit a SBAPCD Asbestos Demolition and Renovation Compliance Checklist at least 10 days prior to the commencement of any demolition activities. (AQ-14)

Construction Worker Trips. Construction worker trips should be minimized by requiring carpooling and by providing for lunch on site. (AQ-15)

Street Sweeping. The property frontage and adjacent property frontages, and parking and staging areas at the construction site shall be swept daily to decrease sediment transport to the public storm drain system and dust.

Construction Best Management Practices (BMPs). Construction activities shall address water quality through the use of BMPs, as approved by the Building and Safety Division.

Mitigation Monitoring Compliance Reports. The PEC shall submit weekly reports during demolition, excavation, grading and footing installation and monthly reports on all other construction activity regarding MMRP compliance to the Community Development Department.

Town and Country Apartment Access. Vehicular access to the Town and Country Apartment parking spaces, located at 3730 State Street, shall be provided throughout construction, if alternative access to San Remo Road has not already been obtained.

Construction Contact Sign. Immediately after Building permit issuance, signage shall be posted at the points of entry to the site that list the contractor(s) and Project Environmental Coordinator's (PEC's) name, contractor(s) and PEC's telephone number(s), work hours, site rules, and construction-related conditions, to assist Building Inspectors and Police Officers in the enforcement of the conditions of approval. The font size shall be a minimum of 0.5 inches in height. Said sign shall not exceed six feet in height from the ground if it is free-standing or placed on a fence. It shall not

exceed 24 square feet if in a multi-family or commercial zone or six square feet if in a single family zone.

Tree Relocation. All trees identified for relocation on-site shall be appropriately protected following removal to ensure their replacement and future survival.

Construction Equipment Maintenance. All construction equipment, including trucks, shall be professionally maintained and fitted with standard manufacturers' muffler and silencing devices.

Graffiti Abatement Required. Owner and Contractor shall be responsible for removal of all graffiti as quickly as possible. Graffiti not removed within 24 hours of notice by the Building and Safety Division may result in a Stop Work order being issued, or may be removed by the City, at the Owner's expense, as provided in SBMC Chapter 9.66.

Unanticipated Archaeological Resources Contractor Notification. Prior to the start of any vegetation or paving removal, demolition, trenching or grading, contractors and construction personnel shall be alerted to the possibility of uncovering unanticipated subsurface archaeological features or artifacts associated with past human occupation of the parcel. If such archaeological resources are encountered or suspected, work shall be halted immediately, the City Environmental Analyst shall be notified and the applicant shall retain an archaeologist from the most current City Qualified Archaeologists List. The latter shall be employed to assess the nature, extent and significance of any discoveries and to develop appropriate management recommendations for archaeological resource treatment, which may include, but are not limited to, redirection of grading and/or excavation activities, consultation and/or monitoring with a Barbareño Chumash representative from the most current City qualified Barbareño Chumash Site Monitors List, etc.

If the discovery consists of possible human remains, the Santa Barbara County Coroner shall be contacted immediately. If the Coroner determines that the remains are Native American, the Coroner shall contact the California Native American Heritage Commission. A Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization.

If the discovery consists of possible prehistoric or Native American artifacts or materials, a Barbareño Chumash representative from the most current City Qualified Barbareño Chumash Site Monitors List shall be retained to monitor all further subsurface disturbance in the area of the find. Work in the area may only proceed after the Environmental Analyst grants authorization. (CR-1)

- J. **Prior to Certificate of Occupancy.** Prior to issuance of the Certificate of Occupancy, the Owner of the Real Property shall complete the following:

Repair Damaged Public Improvements. Repair any damaged public improvements *caused by construction* (curbs, gutters, sidewalks, roadways, etc.) subject to the review and approval of the Public Works Department per SBMC §22.60.090. Where tree roots are the cause of the damage, the roots shall be pruned under the direction of a qualified arborist.

Complete Public Improvements. Public improvements, as shown in the improvement plans, including utility service undergrounding and installation of street trees, shall be completed.

Fire Hydrant Replacement. Replace existing nonconforming type fire hydrant(s) with commercial-type hydrant(s) described in Standard Detail 6-003.1 Paragraph 2 of the Public Works Department Standard Details.

Manholes. Raise all sewer and water manholes on easement to final finished grade.

Noise Measurements. Submit a final report from a licensed acoustical engineer, verifying that interior and exterior living area noise levels are within acceptable levels as specified in the Noise Element. In the event the noise is not mitigated to acceptable levels, additional mitigation measures shall be recommended by the noise specialist and implemented subject to the review and approval of the Building and Safety Division and the Architectural Board of Review (ABR).

Existing Street Trees. Submit a letter from a qualified arborist, verifying that the existing street tree(s) have been properly pruned and trimmed.

Ownership Affordability Provisions Approval. For all dwelling units subject to affordability conditions, obtain from the Community Development Director, or Director's designee in the City's Housing Programs Division, written approval of the following: (a) the Marketing Plan as required by the City's Affordable Housing Policies and Procedures; (b) the initial sales prices and terms of sale (including financing); (c) the eligibility of the initial residents; and (d) the recorded affordability control covenants signed by the initial purchasers which assure continued compliance with the affordability conditions.

New Construction Photographs. Photographs of the new construction, taken from the same locations as those used for the photosimulations contained in the Sandman Inn Redevelopment Project EIR shall be taken, attached to 8 ½ x 11" board and submitted to the Planning Division.

Mitigation Monitoring Report. Submit a final construction report for mitigation monitoring.

Evidence of Private CC&Rs Recordation. Evidence shall be provided that the private CC&Rs required in Section D have been recorded.

- K. **Litigation Indemnification Agreement.** In the event the Planning Commission approval of the Project is appealed to the City Council, Applicant/Owner hereby agrees to defend the City, its officers, employees, agents, consultants and independent contractors (“City’s Agents”) from any third party legal challenge to the City Council’s denial of the appeal and approval of the Project, including, but not limited to, challenges filed pursuant to the California Environmental Quality Act (collectively “Claims”). Applicant/Owner further agrees to indemnify and hold harmless the City and the City’s Agents from any award of attorney fees or court costs made in connection with any Claim.

Applicant/Owner shall execute a written agreement, in a form approved by the City Attorney, evidencing the foregoing commitments of defense and indemnification within thirty (30) days of the City Council denial of the appeal and approval of the Project. These commitments of defense and indemnification are material conditions of the approval of the Project. If Applicant/Owner fails to execute the required defense and indemnification agreement within the time allotted, the Project approval shall become null and void absent subsequent acceptance of the agreement by the City, which acceptance shall be within the City’s sole and absolute discretion. Nothing contained in this condition shall prevent the City or the City’s Agents from independently defending any Claim. If the City or the City’s Agents decide to independently defend a Claim, the City and the City’s Agents shall bear their own attorney fees, expenses, and costs of that independent defense.

NOTICE OF APPROVAL TIME LIMITS:

In general, Development Plan approvals have a time limit of four (4) years pursuant to Municipal Code section 28.87.350. Tentative Map approvals have an initial time limit of two (2) years in accordance with Municipal Code section 27.07.110 (but such initial period may be extended up to three (3) years by local ordinance pursuant to Government Code section 66452.6). When the Planning Commission approves multiple discretionary approvals, Municipal Code section 28.87.370 extends the term of each discretionary approval to correspond to longest approval, unless such an extension would conflict with state law. Therefore, the time limits for the Planning Commission approvals are as follows:

1. **LOT LINE ADJUSTMENT AND TENTATIVE MAP.** The Planning Commission approval of the Lot Line Adjustment and the Tentative Subdivision Map shall expire three (3) years from the date of approval. The subdivider may request an extension of this time period in accordance with Santa Barbara Municipal Code §27.07.110.

2. **DEVELOPMENT PLAN APPROVAL.** The approval of the Development Plan shall expire four (4) years from the date of approval. The developer may request an extension of the Development Plan approval for one additional year pursuant to Municipal Code section 28.87.350.

3. MODIFICATION APPROVAL. The approval of the lot area modification is coterminous with the approval of the Tentative Subdivision Map.